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VIA HAND DELIVERY SEPTEMBER 10, 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: RUBEN, et al.

Application Serial No.: 09/848,271

Art Unit: Unassigned

Filed: May 4, 2001

Examiner: Unassigned

For: Human Tumor Necrosis Factor TR18
And Methods Based Thereon

Attorney Docket No.: PF526

PETITION TO ACCORD A FILING DATE UNDER 37 C.F.R. §§ 1.53(e)(2) AND 1.181

Box DAC,
Assistant Commissioner for Patents,
**Washington, D.C. 20231

RECEIVED

SEP 13 2001

Sir:

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

Applicants hereby petition the Commissioner to review a Notice of Incomplete Non-Provisional Application, mailed August 1, 2001 ("Notice," a copy is submitted herewith), pursuant to 37 C.F.R. §§1.53(e)(2) and 1.181. Also submitted is a Fee Transmittal Sheet, and the fee as set forth in 37 C.F.R. §1.17(h). Please charge the required fee, estimated to be \$130.00, and any other fee deemed necessary to Deposit Account No. 08-3425.

Applicants respectfully submit that this Petition is timely filed, pursuant to 37 C.F.R. §1.181(f), i.e., within two (2) months of the August 1, 2001 mailing date of the Notice.

Applicants submit the following statement of facts, points to be reviewed, and the action requested.

1. The above-identified application was filed without drawings on May 4, 2001.
2. On August 1, 2001, a Notice of Incomplete Non-Provisional Application was issued stating that a filing date was not accorded for the above-identified application because said application was filed without drawings. Further, the

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Notice stated that "Applicants should reconsider whether the drawings are necessary under 35 U.S.C. §113 (first sentence)."

3. Under 35 U.S.C. § 113 (first sentence), a drawing is required "where necessary for the understanding of the subject matter sought to be patented."
4. In the instant case, Applicants submit that drawings are unnecessary for the understanding of the invention, as they would duplicate information presented elsewhere in the specification as filed.
5. For example, Figure 1 is described at Page 6 of the specification, as presenting the nucleotide sequence of SEQ ID NO:1 together with the deduced amino acid sequence it encodes (SEQ ID NO:2), as well as the predicted amino acids that comprise the intracellular, transmembrane and extracellular domains of SEQ ID NO:2 of TR18. Both SEQ ID NO:1 and SEQ ID NO:2 are disclosed in their entireties in the sequence listing, filed concurrently with the instant application, while intracellular, transmembrane and extracellular domains of SEQ ID NO:2 are identified, for example, at Page 6, lines 21-24, of the specification as filed.
6. Therefore, Applicants respectfully submit that a drawing is unnecessary to fully understand the nucleotide sequence of SEQ ID NO:1 and the deduced amino acid sequence of SEQ ID NO:2, as such are fully disclosed in the sequence listing.
7. Furthermore, once the entire sequences of SEQ ID NOs: 1 and 2 are described, an understanding of the predicted amino acids that comprise the intracellular, transmembrane and extracellular domains of SEQ ID NO:2, also explicitly disclosed in the specification (Page 6, lines 21-24), is complete, thereby rendering a drawing further pointing out these domains unnecessary for the understanding of this subject matter.
8. Figure 2 is described, on Page 6, lines 25-31 of the specification, as presenting an analysis of the TR18 amino acid sequence including identification of alpha,

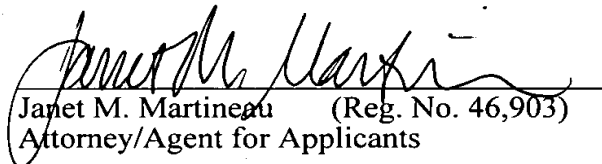
beta, turn and coil regions; amphipathic regions; flexible regions; antigenic indexes and surface probability. All the information described in the legend of Figure 2 is fully represented in tabular form in Table 1 at Pages 15-18 of the specification as filed, as is explicitly noted and detailed in the specification at Page 7, lines 1-12.

9. Therefore, Applicants respectfully submit that a drawing is unnecessary to fully understand the regions of the TR18 protein described above as such are fully and explicitly described in Table 1 and the text at Page 6, line 25 to Page 7, line 12.
10. In view of the above, Applicants respectfully submit that the disclosure of the instant specification is sufficient, that drawings are not necessary under 35 U.S.C. § 113 (first sentence), for the understanding of the subject matter of the invention.

Therefore, Applicants respectfully request that the Notice of Incomplete Nonprovisional Application be withdrawn and a filing date of May 4, 2001 be accorded to the above-identified application.

Respectfully submitted,

Dated: September 10, 2001


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enclosures

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